

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Department of Public Safety
State Building Code Appeals Board

James G. DiPaoli,)
Appellant,)
v.)
City of Boston and William Good,)
Appellees)

DOCKET NO. 05-275

BOARD'S RULING ON APPEAL

Procedural History

This matter comes before the State Building Code Appeals Board ("the Board") on the Appellant's motion filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to grant a variance from 780 CMR 906.2.1 which requires a sprinkler system to be installed in accordance with NFPA 13. NFPA 13, section 8.14.4.2 requires the installation of 18 inch draft stops and closely spaced sprinklers (6 feet on center) around two story floor openings. In accordance with MGL c. 30A, §10 and §11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the State Building Code Appeals Board convened a public hearing on August 3, 2006 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and presiding as the Board were Mr. Harry Smith, Mr. Jacob Nunnemacher, Mr. Brian Gale and Ms. Patricia Barry, acting as clerk. Present and representing Au Bon Pain was the Appellant, James DiPaoli, PE ("the Appellant"). Present and representing the Boston Fire Department ("Boston Fire") was Paul Donga. There was no representative present from the City of Boston Inspectional Services Department.

Findings of fact

1. The subject property is a newly constructed two story building located at 209 Cambridge Street, Boston, Massachusetts. (Board records, Appellant's testimony at hearing).
2. Au Bon Pain is the owner and occupant of the subject property. The first floor is the serving and food preparation area as well as a small seating area. The second floor consists of the food storage area, secondary food preparation area, dishwashing area, seating area and bathrooms. (Board records).
3. The height between the first and second floor, finished floor to ceiling is approximately 8'3". The installation of an 18 inch deep draft stop would infringe on the headroom clearances on the first floor. The plane of the suspended ceiling was installed, at the highest possible point, as tight to the structural steel as possible; which will only allow for the installation of a 9 inch draft stop. (Board records, Appellant's testimony at hearing).
4. The Building Officials and Code Administrators International¹ (BOCA) issued a formal interpretation on whether the code requires draft stopping and closely spaced sprinklers around an unenclosed floor opening in accordance with NFPA 13. In the Appellant's case, because the floor opening complies with 780 CMR 713.3, Exception 5, in accordance with BOCA's interpretation, the requirements of NFPA 13, section 8.14.4.2 for draft stopping and closely spaced sprinklers are not applicable. (Board records, Appellant's testimony at hearing).
5. In lieu of installing the 18 inch draft stops, the Appellant proposed the installation of closely spaced sprinklers (6 feet on center) at the opening with a 9 inch draft stop at the face of the floor opening. Quick response sprinklers, with a coverage area of 120 square feet are installed throughout the building. (Board records, Appellant's testimony at hearing).
6. Boston Fire did not oppose the granting of this variance given that the Appellant agreed to install quick response sprinkler heads, with the lowest RTI value, in the open area on the first floor. (Board records, Paul Donga's testimony at hearing).
7. On or about May 9, 2006 the Appellant filed this appeal with the State Building Code Appeals Board.
8. On or about July 20, 2006 the parties were notified of a hearing scheduled on August 3, 2006.

Conclusion

Motion was made by Mr. Nunnemacher and duly seconded by Mr. Gale to **GRANT** the variance from section 780 CMR 906.2.1 because there was no objection from Boston Fire which was dependent upon the Appellant agreeing to install quick response sprinkler heads, with the lowest RTI available, on the first floor.

Motion carried 3-0. Appeal **GRANTED**.

¹ Presently known as International Code Council

SO ORDERED,

Harry Smith (PR)
HARRY SMITH

Jacob Nunnemacher (PR)
JACOB NUNNEMACHER

Brian Gale (PR)
BRIAN GALE

DATED: September 25, 2006

In accordance with MGL, Chapter 30A, Section 14, any person aggrieved by this decision may appeal the decision to a court of competent jurisdiction within 30 days.